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## Special Master

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

LUKE D. BRUGNARA,

**Plaintiff,**

**Defendant.**

Case Nos. CR 08-0306 WHA  
CR 14-0306 WHA

**STIPULATION AND [PROPOSED]  
ORDER RE SPECIAL MASTER'S  
DOCUMENT REVIEW AND  
PRODUCTION**

On September 16, 2014, United States District Court Judge William Alsup appointed Ed Swanson to serve as special master to review, *in camera*, communications dated April 1 through May 27, 2014 between defendant and any attorneys, and to take certain further actions if directed by the Court. The communications consist of (1) documents that are in the government's possession and (2) documents that were returned to the Court pursuant to subpoenas issued to defendant's former attorneys. The Court ordered Mr. Swanson to determine which documents are covered by the attorney-client privilege, to produce to both parties any non-privileged communications, to segregate to the extent possible attorney-client privileged material by subject matter, and to be prepared to produce to the Court and the parties within one business day all privileged communications, should the Court so order.<sup>1</sup>

<sup>1</sup> The order instructed the production of non-privileged communications to occur by September 30, 2014. However, subsequent to the order, the then-current trial date of October 22, 2014, was

1 Subsequent to the issuance of the order, the parties and Mr. Swanson communicated  
2 about the logistics of the document review and production. After consultation, the parties and  
3 the special master hereby stipulate as follows:

4 1) Mr. Swanson shall receive from the Court the documents that were obtained from  
5 defendant's former attorneys pursuant to subpoena. Mr. Swanson will have a Bates-stamped  
6 copy made of those documents, and he will return the originals to the Court. Mr. Swanson will  
7 also have a Bates-stamped copy made of the documents that were in the government's  
8 possession and have already been produced to him.

9 2) In reviewing the documents described in paragraph 1, Mr. Swanson will segregate  
10 documents that contain communications related to the charges in case CR 14-0306 WHA (the  
11 "responsive documents") from those that do not contain communications related to those charges  
12 (the "non-responsive documents"). Mr. Swanson will not produce to the parties the non-  
13 responsive documents.

14 3) Mr. Swanson will determine which of the responsive documents contain attorney-  
15 client privileged material and which do not.

16 4) Within three court days of receiving from the Court the documents that were  
17 obtained by subpoena, Mr. Swanson will produce to Mr. Babcock a copy of the responsive  
18 documents that Mr. Swanson determines do not contain attorney-client privileged material.  
19 Within three court days of receiving those documents from Mr. Swanson, Mr. Babcock will  
20 determine whether he believes any of the documents contain attorney-client privileged  
21 communications. If so, Mr. Babcock will identify those documents to Mr. Swanson, and Mr.  
22 Swanson will submit them to the Court for the Court to determine whether they contain  
23 privileged information. Mr. Swanson will then produce all other responsive, non-privileged  
24 documents to the parties.

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26  
27 continued to October 29, 2014, and then to January 5, 2015. As a result of the continuance of the  
28 trial date, the parties agreed to a later production of the non-privileged communications.

5) Mr. Swanson will retain any responsive, privileged documents and will be prepared to produce them to the Court within one business day of a Court order, pursuant to paragraph 8 of the September 16, 2014 order.

## IT IS SO STIPULATED.

Dated: December 9, 2014

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/s/  
Edward W. Swanson  
Special Master

Dated: December 9, 2014

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/s/  
Erik Babcock  
Counsel for Luke Brugnara

Dated: December 9, 2014

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/s/  
W. Douglas Sprague  
Assistant United States Attorney

## ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: December 11, 2014.

  
Hon. William Alsup  
United States District Court